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RECORD OF ORAL HEARING  
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

*Ex Parte* BENYAHIA NASLI-BAKIR, STEFAN LINDBERG  
and ANNA JANACKOVIC

Appeal 2010-002997  
Application 09/700,747  
Technology Center 1700

Oral Hearing Held: January 13, 2011

15 Before BRADLEY R. GARRIS, ADRIENE L. HANLON, and  
16 TERRY J. OWENS, *Administrative Patent Judges*.

## 17 APPEARANCES:

## 18 ON BEHALF OF THE APPELLANT:

WILLIEM F.C. de WEERD, ESQUIRE  
Kenyon & Kenyon, LLP  
One Broadway  
New York, NY 10004-1007

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The above-entitled matter came on for hearing on Thursday,  
January 13, 2011, commencing at 10:07 a.m., at the U.S. Patent and  
Trademark Office, 600 Dulany Street, Alexandria, Virginia, before Deborah  
Courville, a Notary Public.

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PROCEEDINGS

1                   2       THE USHER: Calendar No. 37, Appeal No. 2010-002997,

3       Mr. de Weerd.

4       JUDGE GARRIS: Thank you.

5       Good morning, Mr. de Weerd.

6       MR. DE WEERD: Good morning.

7       JUDGE GARRIS: Sir, do you have a name card or something you  
8       could give to our court reporter?

9       MR. DE WEERD: Sure, no problem.

10       JUDGE GARRIS: Okay. As you know, sir, we have about 20  
11       minutes to hear your case. Would you care to begin, please?

12       MR. DE WEERD: Sure. May it please the Board, I'm Willem de  
13       Weerd from Kenyon and Kenyon, representing our client, Akzo Nobel, in  
14       this matter.

15       This case relates to an invention that relates to the application of an  
16       adhesive system to form a gluelam wherein the adhesive system comprises  
17       an amino resin and a hardener applied separately onto a substrate. And, in  
18       particular, the hardener comprises a volatile acid and contains less than 20  
19       percent by weight of a filler.

20       Now, the rejections over the claimed invention all center around the  
21       Andersson reference, and I want to particularly focus on Andersson, and  
22       then in particular, also in view of Lehnert, which is actually where most of  
23       the rejections are based on, and the other rejections are based in view of  
24       further additional references.

25       And, in particular, Andersson is, however, also a system with separate  
26       applying adhesive, though it doesn't use an amino resin as in the claimed

1 invention. And what I wanted to convey and what we've tried to convey  
2 also in the Appeal Brief, as well as in the Reply Brief, is that there's really  
3 three reasons or three issues with respect to obviousness, in view of  
4 Andersson -- obviousness over Andersson in view of Lehnert, and then  
5 further in view of any other -- of the other references cited. Particularly, that  
6 the modifications suggested in the rejection render the teachings of  
7 Andersson inoperable, and further, there is no motivation to combine these  
8 references because the Examiner's -- or the rejection in the final Office  
9 Action, focusing on equivalence of the amino resin and the phenolic resins is  
10 merely that they're both conventional-type resins applied as adhesives in  
11 these wood-type systems. But there's really no equivalence between the  
12 amino resin and the phenolic resin, as applied in this system.

13 And then, finally, there is the issue of unexpected results, where when  
14 in the system, as in the claimed invention, the adhesive resin/hardener  
15 contains less than 20 percent of filler, wherein there is an improvement  
16 found in the percentage or in the amount of delamination. The product  
17 obtained by using the adhesive of the claimed invention has much better  
18 delamination characteristics than those where the filler and the hardener are  
19 in the adhesive exceeds the 20 weight percent.

20 So, first, let me start with Andersson. Andersson, as I said before,  
21 relates to a system with separately applying adhesive, but with amino resin,  
22 and the object of Andersson is to reduce bleeding from the glue joints. This  
23 is a common problem, especially at the time where if you have not the best  
24 mixing of the hardener and the resin, there is some resin that stays within the  
25 composition and due to -- because most of Andersson applies to using wood  
26 products outside in an environment where there is a lot of exposure to

1 moisture and water from rain, et cetera, you'll see a bleeding of the adhesive  
2 from the joints where these wood products are joined together, and which  
3 causes a darkening of the wood product, which is not desirable. And to  
4 resolve this issue, Andersson specifically addresses this by -- basically in a  
5 two-fold manner. One, it looks for a resin that has a low water dilutability,  
6 and also it wants to have a resin that has a sufficiently high pH. The pH of  
7 the resin is important in that case because it avoids the problem of a low pH  
8 having low reactivity when you're using phenolic resins.

9 So, in other words, Andersson is specific for phenolic resins, and it  
10 teaches that you have to have both a low water dilutability of the resin and a  
11 sufficiently high pH has to be maintained.

12 Now, Lehnert is a reference where there's a method for producing a  
13 plywood, and it's particularly directed to an improved cold-pressing  
14 technique. And it's treated in Lehnert -- there is a -- it's attempted to reduce  
15 the amount of formaldehyde emissions from the gluelam.

16 JUDGE HANLON: Excuse me. In Lehnert, is there a separate  
17 application of the resin in the hardener?

18 MR. DE WEERD: No, there is not.

19 JUDGE HANLON: In the abstract, it talks about -- in the abstract of  
20 Lehnert, it says in the -- a formaldehyde-based curable adhesive is applied  
21 and a separate hardener is applied. One is applied to one surface as the  
22 veneer layer and the other is applied to the surface of another veneer layer  
23 opposite to the one coated with adhesive. That's in the abstract of Lehnert.

24 MR. DE WEERD: Right. The issue is where the Examiner has used  
25 the Lehnert reference to combine with the primary reference, Andersson --

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1           JUDGE HANLON: And to show a separate application of the  
2 hardener and the resin.

3           MR. DE WEERD: I'm sorry?

4           JUDGE HANLON: And to show a separate application of a hardener  
5 and a resin.

6           MR. DE WEERD: Actually, my understanding of the Final Office  
7 Action is that the Examiner has applied Lehnert as a teaching that both the  
8 amino resin and the phenolic resins are interchangeable and --

9           JUDGE HANLON: But do you agree that there is a separate  
10 application of resin and --

11           MR. DE WEERD: There is a --

12           JUDGE HANLON: -- hardener and resin in Lehnert?

13           MR. DE WEERD: -- separate application.

14           COURT REPORTER: I'm sorry. Could you repeat that?

15           JUDGE HANLON: I said do you agree that there's a separate  
16 application of the resin and the hardener in Lehnert?

17           MR. DE WEERD: Yes. Right. I mean it says that in the abstract.

18           But the claim that -- as I wanted to point out, is that there is no  
19 motivation actually to combine both the Andersson and Lehnert references  
20 as in the Final Office Action.

21           JUDGE HANLON: As in what?

22           MR. DE WEERD: As in the Final Office Action.

23           JUDGE HANLON: Thank you.

24           MR. DE WEERD: Because if you would -- and as also elaborated in  
25 the Appeal Brief and in the Reply Brief, if you would combine the two  
26 references and modify the Andersson system with Lehnert, you wouldn't -- it

1 would -- because Andersson is specific for the phenolic acid resin and it  
2 looks for low water dilutability, as well as maintaining a high pH, it would  
3 destroy the teachings in Andersson.

4 JUDGE HANLON: I think the Examiner is relying on Andersson for  
5 just the broad teaching that it's known in the art to apply resin and hardener  
6 separately and you get various advantages to doing that.

7 MR. DE WEERD: Okay.

8 JUDGE HANLON: And I know you're focusing on another portion  
9 of Andersson that is solving, maybe, a specific problem.

10 MR. DE WEERD: Sure. And I guess in addition to that, neither  
11 Andersson, actually, or Lehnert focuses on the amount of filler, and as in the  
12 -- as we point out, as well, in our Appeal Brief, there is an unexpected result  
13 by using less than 20 percent of weight of a filler in the adhesive system, and  
14 as well as high amounts of volatile acid, which are not suggested in this  
15 particular system, in either Andersson or Lehnert. And the Example 1 in the  
16 application clearly shows that there are some unexpected results in terms of  
17 the amount of delamination observed when you're using an adhesive system  
18 according to the claimed invention, compared to -- and I think this is  
19 Example 4 -- I mean resin 4 in Example 1, showing a much higher  
20 delamination as opposed to those -- compared to the -- as compared to those  
21 that have a low -- less than 20 percent of filler in the hardener.

22 JUDGE OWENS: Do you think one of ordinary skill in the art would  
23 have expected more filler to cause more delamination?

24 MR. DE WEERD: No, I think the filler was generally accepted to be  
25 around 40 percent, and that would help with mixing of both the hardener and  
26 the adhesive resin and --

1           JUDGE OWENS: Do you think it would get better -- less  
2 delamination if you used a certain amount of filler?

3           MR. DE WEERD: I'm sorry. Can you --

4           JUDGE OWENS: You're saying -- are you saying that using a certain  
5 amount of filler would cause less delamination than using no filler?

6           MR. DE WEERD: I'm not sure what -- I'm saying if you use less than  
7 20 percent of filler in a hardener or a resin, you get less delamination.

8           JUDGE OWENS: Do you get less delamination at 0 percent filler  
9 than you do at 20 percent filler?

10          MR. DE WEERD: Yes. I mean, that's also shown in the -- in that  
11 same -- in those same examples.

12          JUDGE OWENS: So the less filler, the better?

13          MR. DE WEERD: That's right. But there is a clear distinction  
14 between using 30 -- from 20 to 30 percent, and there's a big difference in  
15 terms of delamination, as shown in that Example 1.

16          Now, also, with respect to the equivalency of the amino resin and the  
17 phenolic acid -- and the phenolic resin, I think you've already pointed out, I  
18 mean, that Lehnert -- you're saying that the Examiner has used Lehnert in a  
19 different -- for a different reason than just providing the equivalency, but it's  
20 our position that there really is no equivalence, or Lehnert doesn't teach that  
21 both the amino resin or the phenolic resin are equivalents in the sense that  
22 they're interchangeable within this adhesive system.

23          I think, actually, those are the points I wanted to make today. With  
24 respect to any of the other references, we have -- as I said, we have mainly  
25 focused on this Andersson and -- Andersson in view of Lehnert, because

26

1 mostly all the other rejections are based on Andersson in view of Lehnert.

2 And with that, if there are any further questions?

3 JUDGE GARRIS: Judge Hanlon, any further questions?

4 JUDGE HANLON: No.

5 JUDGE GARRIS: Judge Owens?

6 No further questions, sir.

7 MR. DE WEERD: All right, thank you.

8 JUDGE GARRIS: Thank you very much.

9 (Whereupon, the proceedings, at 10:22 a.m., were concluded.)

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